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HOUSE BILL 608

By Bowers

AN ACT to amend Tennessee Code Annotated, Title 47; Title 53; Title 56; Title 63 and Title 71, relative to prescription drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, is amended by adding Sections 2 through 6, inclusive as a new part to be appropriately designated.

SECTION 2.

(a)

(1) The department of health shall establish a program to provide low-cost prescription and nonprescription drugs, medication and medical supplies to disadvantaged, elderly and disabled individuals. The program shall be known as the Tennessee medication assistance program.

(2) An individual is eligible for assistance under the program established by this section if the individual meets the income requirements of subdivision

(b)(2) and is:

(A) At least sixty-two (62) years of age; or

(B) Nineteen (19) years of age or older and determined to be disabled by the standards of the federal social security program. In order to be eligible the individual must also be a legal resident of the state at the time the application is filed. An individual does not qualify as eligible if the individual receives medical assistance pursuant to Tennessee Code Annotated, Title 71, Chapter 5, Part 1.

(3) The commissioner shall provide for sufficient personnel to ensure efficient administration of the program. The extent and the magnitude of the program shall be determined by the commissioner on the basis of the calculated need of the recipient population and the available funds. The department may not spend more on this program than is available through appropriations from the general fund, dedicated revenue, federal or other grants and other established and committed funding sources. The commissioner may accept, for the purposes of carrying out this program, federal funds appropriated under any federal law relating to the furnishing of free or low-cost drugs to disadvantaged, elderly and disabled individuals and may take such actions as is necessary for the purposes of carrying out that federal law and may accept from any other agency of government, individual, group or corporation such funds as may be available to carry out this part.

(b) The commissioner may adopt rules relating to the conduct of this program. These rules must be adopted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall be related to the following aspects of this program:

(1) The kinds of prescription and nonprescription drugs, medications and medical supplies that may be made available through the operation of this

program. Drugs and medications shall be provided for the conditions and illnesses provided in this subsection.

(A) The basic component of the program shall provide drugs and medications for cardiac conditions and high blood pressure, diabetes, arthritis, anticoagulation, hyperlipidemia, osteoporosis, chronic obstructive pulmonary disease and asthma, incontinence, thyroid diseases, glaucoma, Parkinson's disease, multiple sclerosis and amyotrophic lateral sclerosis.

(B) In the supplemental component of the program, drugs and medications shall include all prescription drugs and medications provided under the medical assistance program under this title with the exception of drugs and medications provided by the basic component of the program under sub-item (A).

(2) Income eligibility of individuals must be determined by this subsection and by reference to the federal nonfarm income official poverty level, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget and Reconciliation Act of 1981, Section 673, Subsection 2. If the household income, as defined in Section 2 (c)(4), is less than one hundred eighty-five percent (185%) of the federal poverty line applicable to the household, the individual is eligible for the basic and the supplemental program. Individuals are also eligible for the basic program and the supplemental program prescription drugs and medications if the household spends at least forty percent (40%) of its income on unreimbursed direct medical expenses on prescription drugs and the household income is not more than twenty-five percent (25%) higher than the levels specified in this subsection. For the purposes of this subsection, the cost of drugs provided to a

household under this section is considered a cost incurred by the household for eligibility determination purposes.

(3) Specifications for the administration and management of the program, which may include, but not be limited to, program objectives, accounting and handling practices, supervisory authority and evaluation methodology.

(4)

(A) The method of prescribing or ordering these drugs, which may include, but is not limited to, the use of standard or larger prescription refill sizes so as to minimize operational costs and to maximize economy. Unless the prescribing physician indicates otherwise, the use of generic or chemically equivalent drugs is required, provided that these drugs are of the same quality and have the same mode of delivery as is provided to the general public, consistent with good pharmaceutical practice. Each prescription filled shall be for a supply of ninety (90) days unless the prescribing physician or the recipient requests otherwise.

(B) The commissioner may establish the amount of payment to be made by recipients toward the cost of prescription or nonprescription drugs, medication and medical supplies furnished under this program; provided that, for persons at or below one hundred eighty-five percent (185%) of the federal poverty line, the total cost for any covered purchase of a prescription or nonprescription drug or medication provided under the basic component of the program does not exceed twenty percent (20%) of the price allowed for that prescription under program rules or two dollars (\$2.00). For the supplemental component of the program, the total cost paid by the individual for any covered purchase of a prescription

drug or medication may not exceed the cost of the program for that drug or medication minus the two dollars (\$2.00) paid by the program.

(5) The manner in which eligible individuals shall apply to the department or to any agency designated by the commissioner in order to participate in the Tennessee medication assistance program. Eligible individuals shall obtain from the department a Tennessee medication assistance program enrollment card.

SECTION 3. The Tennessee medication assistance fund, referred to in this section as the "fund," is established to receive revenue from federal sources and from any appropriations or allocations designated for the fund. The purposes of the fund are to: benefit the medication assistance program under Section 2, and to reimburse the department for contracted services, administrative and associated computer costs and other reasonable program costs. Moneys from the fund may be expended to fund activities authorized by this part. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Surplus funds in the fund may be used only for the benefit of the program or surplus funds may also be transferred to the elderly medication assistance program established under Section 2.

SECTION 4. The department shall report the enrollment and financial status of the program to the general assembly by the second week in January each year.

SECTION 5. The department shall establish simplified procedures for determining eligibility and issuing medication assistance program enrollment cards to eligible individuals and shall undertake outreach efforts to build public awareness of the program and maximize enrollment of eligible individuals. The commissioner shall set standards for an application process and standards for determining access to such insurance by rule in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Tennessee Code

Annotated, Title 4, Chapter 5. The department may adjust the requirements and terms of the program to accommodate any new federally-funded prescription drug programs.

SECTION 6. The department may contract with a third-party or third-parties to administer any or all components of the program, including, but not limited to, outreach, eligibility, and claims.

SECTION 7. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 8. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, title 4, chapter 5.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect July 1, 2001, the public welfare requiring it.